

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Appln. No: 10/611,763
Applicant: William T. Wilkinson
Filed: July 1, 2003
Title: EXERCISE DEVICE OR EXERCISING UPPER BODY SIMULTANEOUSLY WITH LOWER BODY EXERCISE
TC/A.U.: 3764
Examiner: Glenn E. Richmond
Confirmation No.: 2147
Docket No.: WIL-115US

RESPONSE TO ELECTION OF SPECIES REQUIREMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the Office Communication dated February 11, 2006, the applicant respectfully traverses the election of species requirement for lack of completeness and unstated rationale for how the claims have been grouped into the various species. The election of species requirement separates the claims into 26 different species, some of which the applicant believes relate to features that are common with other species. None of the species groupings contain any analysis of what element or elements define the species. Accordingly, it is difficult for the applicant to determine whether additional claims should be rightfully included within each elected species. The applicant further respectfully points out that the election of species requirement does not suggest any disposition of the following claims: 2, 3, 5, 14-16, 20-27, 34, 35, 37, 38, 40, 43, 44, 47-49, 56-58, 68, 70-72, 75, 78, 81-87, 91-93, 104-107, 113-115, 117, 125-128, 131-133, 136-138, 148-151, and 162-183. Accordingly, by electing a species herein, the applicant does not concede that any of these claims fall within a species that is different than the elected species. The office action states that claims 1, 41, 42, 55, 69, 90, 111, and 134 are generic. The applicant does not challenge this finding, but without any stated rationale for why each species was grouped together, cannot determine if other claims should rightfully be considered generic also. Accordingly, the applicant reserves the right to identify additional claims, particularly those not addressed by the election of species requirement at all, as generic in a subsequent response.

Notwithstanding the above comments, the applicant selects the species containing claims 28-33. Claim 28 recites an upper body resistance device detachable from the rear mounting arm and a mounting device at the front of the machine for receiving the upper body resistance device. Claim 30 recites a forward-mounted upper body resistance device on one of a selected group of lower-body exercise machines. Claim 29 recites the machine being adapted to allow a full, natural arm swing without the user hitting a portion of the machine or its attachments. Claim 31 recites a frictional resistance mechanism. Claims 32 and 33 recite specific frictional resistance mechanisms.

Additionally, the applicant contends that the following claims should also be included in the elected species:

Claims 60-64, 68 -- these claims, which are directly dependent on generic claim 55, recite specific locations for alternate positioning of the upper body resistance device, which include the forward-mounted position recited in claim 28, and a rearward position as recited in generic claim 1.

Claims 45 and 46 -- claim 45 recites a frictional resistance mechanism on the upper body resistance device (as does elected claim 31); claim 46 recites positioning of the mounting arm in language similar to the language of generic claim 1.

The applicant clarifies that the above traversal and assertion that additional claims should be included in the elected species should not be interpreted as an admission that certain species or claims are not patentably distinct. Rather, the applicant respectfully submits that the purpose of an election of species requirement is to limit the search for the benefit of the examiner, and the claims the applicant has indicated should be included within the elected species to not broaden the search beyond that already implicit in the set of claims elected and/or designated as generic.

In accordance with this response, the applicant contends that at least the following claims should now be examined and that all other non-cancelled claims are at least temporarily withdrawn pursuant to the election of species requirement:

1, 28-33, 41, 42, 45, 46, 55, 60-64, 68, 69, 90, 111, and 134.

Respectfully submitted,


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Dated: March 13, 2006

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The Commissioner for Patents is hereby authorized to charge payment to Deposit Account No. 18-0350 of any fees associated with this communication.

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office on:

March 13, 2006

Gayle Bay

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